IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

FRIDAY, THE 23RD FEBRUARY 2007 / 4TH PHALGUNA 1928

WP(C).No. 5848 of 2007(U)

PETITIONER:

N.ANANDAVALLY, PROPX: M/S.ATHULYA
WOOD INDUSTRIES, RESIDING AT AJI NIVAS,
KANNIMELCHERY, MURUTHADY, KOLLAM DISTRICT.

BY ADV. SRI.P.N.MOHANAN
SRI.UNNI. K.K. (EZHUMATTOOR)

RESPONDENTS:

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1. PRINCIPAL SECRETARY TO GOVERNMENT,
FINANCE DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.

2. CHIEF MANAGER, KERALA FINANCIAL
CORPORATION, A.G.C.COMPLEX, BEACH ROAD,
KOLLAM.

3. MANAGING DIRECTOR,
KERALA FINANCIAL CORPORATION,
THIRUVANANTHAPURAM.

R1 BY GOVT. PLEADER SRI.I.V.PRAMOD
R2, R3 BY ADV.SRI.A.A.ABUL HASSAN, S.C.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN, J

W.P(C).No.5848 OF 2007

Dated this the 23rd day of February, 2007

JUDGMENT

This writ petition is field against the action taken under the State Financial Corporations Act by the Kerala Financial Corporation taking over the industrial unit. Going by the pleadings, the saw mill unit was working. It is also submitted on behalf of the petitioner by the learned counsel that because the take over was without prior notice, the timber, which belong to certain other persons, are also in the premises and could not be removed. This will only show that the industry was in a running condition.

2. As against the then outstandings of Rs.84,00,000/-, KFC was ready to set out an amount of Rs.25,00,000/- plus certain portion of interest. Thereafter, the KFC granted an enlargement of time to avail the benefit of One Time settlement. Still nothing was done, no payment was made. Accordingly, the present action was taken. It is pointed out by the learned counsel for the

petitioner that the Finance Minister and the State Government had, acting on a representation of the petitioner, directed the KFC to adjourn distress action by six months and thereby grant six months' time to utilise the OTS scheme. It is stated that the Principal Secretary to Government, Finance Department had issued a communication in that regard.

3. The KFC is a statutory body under the SFCs Act. The SFCs Act does not give any superior power to State Government or the Minister or the Secretary to Government to issue any orders of stay for interfering with recovery process of a Finance Corporation under the SFCs Act. This is because, KFC is a statutory body and is entitled to function under the SFCs Act. Under such circumstances, I do not find any ground to assume that there was any interdictory order from the State Government, the Finance Minister or the Secretary to Government to KFC on any application to withhold the take over proceedings.

4. Learned counsel for the KFC submits that there was a mob attack at the office of the KFC and an attempt to burn off the official vehicle of KFC at the time when the KFC officials visited the place for taking over and that it was on account of police intervention that the take over was possible. Whatever that be, it is not a matter that needs to gain attention of this Court.

5. Having heard counsel for parties, I do not find any ground to interfere with the impugned proceedings, particularly when as against the present outstandings, which is about Rs.85,00,000/-, the petitioner is not willing even to deposit a portion of the same, say Rs.25,00,000/- which was mentioned during the hearing by me, at least to permit the petitioner to pay off the outstandings within a breathing time.

The writ petition fails the same is accordingly dismissed.

THOTTATHIL B.RADHAKRISHNAN
Judge

kkb.